

Judge Richard A. Jones

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

CASE NO. C14-1203

(2:12-CR-0133-1)

Plaintiff,

v.

STIPULATION

MARK F. SPANGLER; and
SPANGLER GROUP, INC.

RETIREMENT PLAN,

Defendants,

v.

KLJ CONSULTING LLC; and
KENT L. JOHNSON, KLJ Consulting
LLC's Managing Director, General
Receiver of THE SPANGLER GROUP,
INC.,

Garnishee.

WHEREAS presently before this Court is a dispute between the United States and the Spangler Group, Inc. Retirement Plan ("Plan") over the United States' ability to enforce its writ of garnishment against the Plan, and specifically against the Plan contributions of Mark Spangler and LuAnn Renfrew; and

WHEREAS this Court has directed the parties to advise the Court of their resolution of this dispute by December 12, 2014 (Dkt. #26); and

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SEATTLE, WASHINGTON 98101
(206) 553-7970

1 WHEREAS the parties have conferred via email and/or teleconference on multiple
2 occasions since the Court's Order and have agreed on a resolution that will allow the Court
3 to:

- 4 A. terminate this matter by dismissing the Plan's motion to quash the writ of
5 garnishment,
6 B. Enter partial judgment on the Writ, and otherwise terminate the writ proceeding;
7 and
8 C. Issue an order coextensive with the parties' various agreements to facilitate
9 complete and final settlement;

10 ACCORDINGLY, THE PARTIES STIPULATE AND AGREE as follows:

- 11 1. The Plan hereby voluntarily withdraws its Motion to Quash the Writ of
12 Restitution;
13 2. Judgment on the Writ shall be entered against The Spangler Group, which entity is
14 presently in state court receivership proceedings ("Receivership Proceedings")
15 (King County Cause No. 11-2-22214-4), for and equal to Mark Spangler's interest
16 in the Plan's Claim, as filed in such Receivership Proceeding, which interest was
17 previously stipulated by the parties in the Preliminary Joint Statement to be 76%
18 of the Plan's assets but after further review has been determined and agreed to be
19 73.9 % of the Plan's assets. Accordingly, if the court in the Receivership
20 Proceedings denies the Plan's Claim then Mr. Spangler's interest therein is
21 effectively \$0.00 and the Judgment on the Writ is effectively zero. If the court in
22 the Receivership Proceedings allows the Plan's Claim, the Judgment on the Writ
23 shall be fully satisfied if and when 73.9% of the amount distributable on account
24 of the Plan Claim, per the distribution metrics and methods established in the
25 Receivership Proceeding, is distributed and paid over to the registry of this Court
26 to be held until such time as Mark Spangler's appeal of his criminal conviction is
27 reviewed by the Court of Appeals;
28

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- 1 3. The Writ of Garnishment shall be released and dismissed, without prejudice, and
2 no judgment shall be entered against The Spangler Group as to Luann Renfrow's
3 percentage interest in the Plan Claim or Plan's assets, which was previously
4 stipulated by the parties in the Preliminary Joint Statement to be 24% of the Plan's
5 assets but after further review has been determined and agreed to be 26.1% of the
6 Plan's assets;
- 7 4. If the Plan Claim is allowed in the Receivership Proceeding, The Spangler Group
8 Receiver is expressly authorized by the parties to distribute 26.1 % of the amount
9 distributable on account of the Plan Claim to the Plan;
- 10 5. The United States reserves all rights against the Plan and/or respecting any
11 amounts distributed by the Spangler Group Receiver to the Plan and nothing shall
12 preclude the United States from initiating *in rem* forfeiture proceedings against
13 Ms. Renfrow's portion of the Plan's assets.
- 14 6. Following entry of an order incorporating the elements stipulated above, the
15 Receiver shall move the Receivership Court to allow the Plan Claim, distribute
16 and pay over to the registry of this Court 73.9 % of the amounts distributable on
17 account of the allowed Plan Claim in satisfaction of the Judgment on the Writ, and
18 distribute and pay over to the Plan 26.1% of the amount distributable on account
19 of the Plan Claim (i.e., Luann Renfrow's agreed share or interest in the Plan
20 assets.)
- 21 7. The Plan agrees to contingently waive and release any and all claims and actions,
22 known or unknown, against the Receiver and/or the Spangler Group relating to or
23 arising out of the Receiver's management of the Plan's assets, and/or the
24 Receiver's disbursement of amounts allocable and/or distributable on account of
25 the Plan Claim per the metrics and methods for approved claims in the
26 Receivership Proceeding. This waiver will become final and binding upon
27 payment to the Plan of 26.1% of the amount distributable on account of the Plan
28 Claim.

SO STIPULATED:

/s/ Harold Malkin

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/s/ David L. Tuttle

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Of Attorneys for the Receiver

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Western District of Washington and is a person of such age and discretion as to be competent to serve papers;

That on the below date she electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participant(s):

David L. Tuttle: davidt@mlstoll-law.com;

Andrea D. Orth: aorth@bsss-law.com

That on the below date she mailed by United States Postal Service the foregoing document to the following non-CM/ECF participant(s)/CM/ECF participant(s), addressed as follows:

Mark Spangler, Register No. 42280-086
FCI Lompoc - Federal Correctional Institution
3600 Guard Road
Lompoc, CA 93436

Dated this 11th day of December, 2014.

/s/ Dawn H. Fernandez

Dawn H. Fernandez, Paralegal
United States Attorney's Office
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Judge Richard A. Jones

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

CASE NO. C14-1203

(2:12-CR-0133-1)

Plaintiff,

v.

**[Proposed] ORDER ADOPTING
PARTIES' STIPULATION,
ENTERING PARTIAL
JUDGMENT ON THE WRIT,
AND FACILITATING
SETTLEMENT**

MARK F. SPANGLER; and
SPANGLER GROUP, INC.
RETIREMENT PLAN,

Defendants,

v.

KLJ CONSULTING LLC; and
KENT L. JOHNSON, KLJ Consulting
LLC's Managing Director, General
Receiver of THE SPANGLER GROUP,
INC.,

Garnishee.

THIS MATTER CAME BEFORE THE COURT pursuant to the Writ of Garnishment proceeding commenced by the United States of America ("United States") and directed to garnishee defendant KLJ Consulting LLC, and Kent L. Johnson, Managing Director of KLJ Consulting LLC, as General Receiver of the Spangler Group, and the related Motion to Quash the Writ of Garnishment filed by intervenor, the Spangler Group Retirement Plan. The Court has reviewed the Parties' Preliminary Joint Statement [Docket #25] and recently-

**ORDER ADOPTING PARTIES' STIPULATION, ENTERING PARTIAL
JUDGMENT ON THE WRIT, AND FACILITATING SETTLEMENT - 1**
USA v. Spangler, et al. v. KLJ Consulting LLC, et al - No. C14-1203

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1 filed Stipulation, the pleadings and files relating to the United States' Writ of Garnishment,
2 and hereby

3 ORDERS, ADJUDGES, AND DECREES AS FOLLOWS:

- 4 1. The Motion to Quash the Writ of Restitution filed by the Spangler Group Inc.
5 Retirement Plan has been voluntarily withdrawn by the movant and is therefore
6 terminated;
- 7 2. Judgment shall be entered on the Writ against The Spangler Group, which entity is
8 presently in state court receivership proceedings ("Receivership Proceedings")
9 (King County Cause No. 11-2-22214-4), for and equal to Mark Spangler's interest
10 in the Plan's Claim, as filed in such Receivership Proceeding, which interest has
11 been agreed by the parties hereto to be 73.9% of the Plan's assets. Accordingly, if
12 the court in the Receivership Proceedings denies the Plan's Claim then Mr.
13 Spangler's interest therein is effectively \$0.00 and the Judgment on the Writ is
14 effectively zero. If the court in the Receivership Proceedings allows the Plan's
15 Claim, the Judgment on the Writ shall be fully satisfied if and when 73.9% of the
16 amount distributable on account of the Plan Claim, per the distribution metrics and
17 methods established in the Receivership Proceeding, is distributed and paid over to
18 the registry of this Court to be held until such time as Mark Spangler's appeal of
19 his criminal conviction is reviewed by the Court of Appeals;
- 20 3. The Writ of Garnishment is hereby released and dismissed in part, without
21 prejudice, and no judgment shall be entered against The Spangler Group as to
22 Luann Renfrow's percentage interest in the Plan Claim or Plan's assets, which the
23 parties have agreed to be 26.1% of the Plan's assets;
- 24 4. If the Plan Claim is allowed in the Receivership Proceeding, The Spangler Group
25 Receiver is expressly authorized by the parties to distribute 26.1% of the amount
26 distributable on account of the Plan Claim to the Plan;
- 27
28

**ORDER ADOPTING PARTIES' STIPULATION, ENTERING PARTIAL
JUDGMENT ON THE WRIT, AND FACILITATING SETTLEMENT - 2**
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5. United States has reserved and maintains all rights against the Plan and/or respecting any amounts distributed by the Spangler Group Receiver to the Plan and nothing shall preclude the United States from initiating *in rem* forfeiture proceedings against Ms. Renfrow's portion of the Plan's assets.
6. Following entry of this Order, the Receiver shall move the Receivership Court to allow the Plan Claim, distribute and pay over to the registry of this Court 73.9 % of the amounts distributable on account of the allowed Plan Claim in satisfaction of the Judgment on the Writ, and distribute and pay over to the Plan 26.1% of the amounts distributable on account of the Plan Claim (i.e., Luann Renfrow's agreed share or interest in the Plan assets.)
7. The Plan has contingently waived and released any and all claims and actions, known or unknown, against the Receiver and/or the Spangler Group relating to or arising out of the Receiver's management of the Plan's assets, and/or the Receiver's disbursement of amounts allocable and/or distributable on account of the Plan Claim per the metrics and methods for approved claims in the Receivership Proceeding. Such contingent waiver and release shall become final and binding upon payment to the Plan of 26.1% of the amount distributable on account of the Plan Claim.

DATED this _____ day of December 2014.

The Honorable Richard A. Jones
United States District Court Judge

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ORDER ADOPTING PARTIES' STIPULATION, ENTERING PARTIAL JUDGMENT ON THE WRIT, AND FACILITATING SETTLEMENT - 3
USA v. Spangler, et al. v. KLJ Consulting LLC, et al - No. C14-1203

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1 Presented by:

2
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**ORDER ADOPTING PARTIES' STIPULATION, ENTERING PARTIAL
JUDGMENT ON THE WRIT, AND FACILITATING SETTLEMENT - 4**
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